

# **MINUTES OF THE CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

**October 20, 1998**

The Capital Projects and Bond Oversight Committee met on Tuesday, October 20, 1998, at 10:00 a.m., in Room 207 of the Commonwealth Convention Center in Louisville, Kentucky. Representative Robert Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Robert Damron, Chairman; Senator Robert Leeper, Vice Chairman; Representatives Drew Graham, Paul Marcotte, and Jim Wayne.

Guests: Representatives Larry Clark, Perry Clark, and Dennis Horlander; Harold Workman and Ron Duvall, Kentucky State Fair Board; Earl Clemmons, Jr., Bill Hintze, and Allan Holt, Governor's Office for Policy and Management; Commissioner Armond Russ and Terry Parker, Department for Facilities Management; James DeLong, Burt Deutsch, Kennedy Helm III, and Elaine Musselman, Louisville/Jefferson County Regional Airport Authority; Don Conrad, Edgewood-East Neighborhood Association; Dorn Crawford, Emily Evans, and Mary Rose Evans, Airport Neighbors' Alliance; Marilyn Eaton-Thomas, Kentucky Infrastructure Authority; David Bratcher, Economic Development Cabinet; Bob Gumbell and Tim Mulloy, The Commonwealth Group; Paul Roya and Marcia Morgan, Office for Program Support/Cabinet for Health Services; Tom Engstrom, Department of Education; and Doug Teague, LRC.

LRC Staff: Mary Lynn Collins, Pat Ingram, Jack Affeldt, and Shawn Bowen.

Press: Rob Foshee, WLKY-TV.

Representative Graham made a motion to approve the minutes of the September 15, 1998 meeting as submitted. The motion was seconded and passed by voice vote.

Chairman Damron recognized special guests Representative Larry Clark, House Speaker Pro-Tem, Representative Dennis Horlander, and Representative Perry Clark.

Chairman Damron said, because of limited time, the Committee would deviate from its routine review and discuss under New Business only those agenda items requested by members; and the remaining agenda items requiring action would be voted on as a group.

Chairman Damron said the one item members, prior to the meeting, requested further discussion on, concerned the voluntary buyout of property by the Regional Airport Authority (RAA). He said the 1998 General Assembly appropriated \$20 million to the RAA to acquire property under its land acquisition/noise mitigation program, and in return for \$20 million, the RAA is to transfer \$20 million worth of property to the state to be used by the State Fair Board.

Chairman Damron said language in the budget bill directs that the \$20 million appropriation is not to be released to the RAA until both the Finance Cabinet and the Capital Projects Committee are satisfied that certain established conditions have been met. He then introduced Mr. Bill Hintze, Governor's Office for Policy and Management, and Mr. Harold Workman, Kentucky State Fair Board, to discuss the Memorandum of Understanding (MOU) relating to the authorized project.

Mr. Workman introduced Mr. Jim DeLong, General Manager of the RAA; Ms. Elaine Musselman, RAA Board Member; and Mr. Burt Deutsch, Corradino Group and consultant for the airport expansion project.

Mr. Hintze said this \$20 million project was not only the largest project in the Surplus Expenditure Plan, but it had one of the highest priorities as well. The budget language in House Bill 321 prohibits disbursement or utilization of the \$20 million until both the Finance Cabinet and the Capital Projects Committee are satisfied that three parameters have been met. Mr. Hintze said the RAA has satisfied the Finance and Administration Cabinet. The three parameters include: 1) existing RAA audit records are to be transmitted to the Auditor of Public Accounts; 2) all costs for infrastructure development in the Innovative Housing Program, subdivision development shall be borne by the Innovative Housing Program; and 3) the RAA's use of land purchased in the voluntary buyout program is restricted to airport-related uses or airport/fairgrounds compatible uses.

Mr. Hintze said this MOU supersedes the Ashton-Adair Agreement, which was signed four years ago by the Fair Board, the RAA, the Transportation Cabinet, and the Finance Cabinet. The Ashton-Adair agreement led to the first phase of property acquisition for the Fair Board in the Ashton-Adair neighborhood voluntary buyout program. The current program is a voluntary buyout program for the remainder of that neighborhood and for other neighborhoods affected by the noise associated with the airport expansion.

Chairman Damron said although the MOU gives the Finance Cabinet the authority to inspect the project, Finance is not required to do so. He asked how the Cabinet plans to make sure the RAA complies with the budget directives. Mr. Hintze responded that

Finance will work in good faith with the RAA; they expect every condition to be met as stipulated in the law and in the MOU. Mr. Hintze said it would be prudent to expect periodic reporting on the project, and a record of compliance with those specific terms and conditions in exchange for the \$20 million will be kept.

In response to a question from Chairman Damron, Mr. Hintze said he would be happy to forward to the Committee quarterly project reports as they are submitted by the RAA.

Representative Wayne commended the staff involved in this project for its work, and said the MOU is a good example of how the RAA and the state continue to work well together.

Representative Wayne said the Auditor's Office has reviewed the RAA's financial reports for the last ten years, and completed a report on their review. He asked Mr. Hintze and the RAA representatives if they had reviewed the auditor's report. Mr. Hintze responded that they had not seen the document until this morning.

Rep. Wayne said the auditor's report was a good report and it showed that the RAA has done a good job in managing its finances. He said the report recommended a management (performance) audit, and asked Mr. DeLong if the RAA would be willing to share in the cost of the audit since the Auditor's Office has a limited operating budget. Mr. DeLong responded that he would need to know what such an audit entailed, and then make sure the RAA Board is supportive of the approach. He said if the Board is supportive, they will find the money to help with the cost of the audit.

In response to another question from Representative Wayne, Mr. DeLong said he would be willing to discuss the subject of a management audit with Mr. Ed Hatchett, Auditor of Public Accounts, and with the RAA Board, and then report back to the Committee at its next meeting.

In response to a question from Representative Wayne, Mr. DeLong said the Innovative Housing Program (supported by a federal grant and matching funds from the RAA) will pay the infrastructure costs associated with the Innovative Housing Program.

Chairman Damron noted that the MOU does not reference the language included in a budget document relating to the RAA developing a 750-acre industrial park for local and state economic development purposes, and working with UPS to sell it land at the airport and in the Edgewood area. He asked why those two requirements were left out of the MOU, and if another MOU will be prepared to cover these items. Mr. Hintze said the MOU is intended to parallel the language in the Executive Appropriations Bill, and it is not meant to ignore those other, more detailed stipulations in other budget documents. He

said the two items are still important and can be considered part of the quarterly reporting process. He added that no conditions have been dropped, waived, or altered, as a result of the MOU.

Representative Larry Clark welcomed the Committee members and the staff to Louisville, and then asked Mr. Hintze what recourse or appeals process citizens will have if they believe the MOU has been violated. Mr. Hintze responded that the MOU for this project is actually more detailed than most of the other local projects funded in the 1998 Session. If any of the conditions set out in the MOU are not adhered to, either party has recourse through negotiations or legal action.

In response to a question from Representative Wayne, Mr. DeLong said the RAA is looking at a minimum of seven years and a maximum of ten years to move all 1,600 families out of the area affected by the airport expansion.

Representative Wayne commended the RAA and Mr. DeLong for delaying construction of the skywalks that connect the parking garage to the terminal. He said this decision to delay expenditures relating to the skywalks until the property of the remaining 1,600 families has been purchased is a very positive gesture.

Representative Wayne made a motion to approve the \$20 million MOU for the RAA. The motion was seconded by Representative Graham and passed by voice vote.

Chairman Damron then referred to the budgeted local projects, and said legislators want funds appropriated for those projects to be disbursed to communities as soon as possible, but at the same time they want to make sure the money is being spent properly. Mr. Hintze said that is the reason for using a formal legal instrument like an MOU prior to disbursing the funds. He added that the Finance Cabinet is preparing MOUs for approximately 400 local projects included in the 1998-2000 Executive Budget.

Chairman Damron asked if the MOUs contain a follow-up mechanism to make sure the surplus funds are being spent as authorized. Mr. Hintze said the project funds are routed through a city or county government, and the MOUs make the local governments legally responsible for assuring local grant projects are performed, conducted, procured, and delivered as intended. Local governments are required to follow their procurement code, and are subject to an audit. He noted that while the Finance Cabinet does not have the resources to audit each project, the MOU stipulates that an audit, either by an independent auditor or the Auditor of Public Accounts, shall be required.

Mr. Hintze explained that there are four major cabinets (Tourism Development Cabinet, Economic Development Cabinet, Finance Cabinet, and the General Government/Cabinet Department for Local Government) in charge of these various local

grants, and each cabinet is responsible for projects assigned to it. He said the ability of those four cabinets to follow every dollar into every community is limited, which is why each project has an MOU with the provision for audits and reports to ensure the public's money is spent in the way it is intended.

Chairman Damron asked, if at some point, the Committee could receive an update from these four cabinets on how the money has been spent. Mr. Hintze said he thought that would be a fair and reasonable request.

Chairman Damron said there were a number of other items on the agenda, and unless there were objections, they would be voted on as a group, with the exception of the school bond issues, which would be taken up separately.

Representative Wayne made a motion that all action items on the agenda be approved, with the exception of the School Facilities Construction Commission (SFCC) bond issues. The motion was seconded by Representative Graham and passed by voice vote.

The action items approved were as follows:

**(1) Economic Development Bond grant of \$500,000 to the City of Danville, Boyle County.** Danville will use the grant to make a forgivable interest-free loan to Caterpillar, Inc. In return, the company will be required to create and maintain 101 full-time equivalent jobs over a two-year period with an average wage of \$32,000. If Caterpillar does not create and maintain the employment levels, it may be required to repay the loan at a rate of \$4,950 per job not created and maintained.

**(2) Economic Development Bond grant of \$500,000 to the City of Hopkinsville.** Hopkinsville will purchase equipment and lease it to the Budd Corporation for 20 years at a rate of \$1 per year. The Budd Company and Tallent Engineering, Ltd., will build a facility in a joint venture as Budd/Tallent Corporation. The company will be required to create 247 full-time jobs by December 31, 2000, with an average wage of \$26,628, and maintain those jobs through December 31, 2003. If the company does not create or maintain those jobs, it may be required to repay \$2,024 per job.

**(3) A Kentucky Infrastructure Authority loan from Fund A (Federally Assisted Wastewater Revolving Loan Fund).** KIA will lend \$1,240,094 to the City of Mayfield to renovate portions of its sewer system. The terms of the loan are 3.8% for 20 years. Sewer user rates will not increase.

**(4) A Kentucky Infrastructure Authority loan from Fund A1 in the amount of \$141,125 for the City of Midway.** Proceeds will be used to plan and design a new wastewater treatment plant. The terms of the loan are 3.8% for 5 years.

**(5) A \$19 million bond issue, Kentucky Economic Development Finance Authority Revenue Refunding Bonds, Series 1998, Colonial Heights Project (Florence, Kentucky).** Proceeds from this conduit bond issue will be used to refund an earlier bond issue by the City of Florence for the Retirement Housing Foundation, and to expand the Foundation's project by constructing a new assisted living facility and an Alzheimer's facility. The length of term is 30 years and the long-term interest rate is projected to be 5.35%.

**(6) Kentucky Asset/Liability Commission 1998 General Fund Second Series Project Notes in the amount of \$127,200,000.** The proceeds will provide short-term financing for General Fund supported bond-funded projects in the Surplus Expenditure Plan authorized by the 1998 General Assembly. The short-term notes will expire on July 1, 1999, and the estimated short-term interest rate is 3.15%.

Chairman Damron asked Representative Graham to take over duties of the Chair for the next agenda item, school bond issues. Representative Graham said there were twenty-five new SFCC bond issues which did not require a tax increase: Adair Co. - \$6,685,000 to refund 1992 bonds; Boone Co. - \$4,720,000 to refund 1993 bonds; Breathitt Co. - \$2,505,000 to refund 1992 bonds; Caldwell Co. - \$2,365,000 to partially refund 1994 bonds; Edmonson Co. - \$1,530,000 to partially refund 1991 bonds; Fayette Co. - \$5,825,000 to refund 1992 bonds; Glasgow Ind. (Barren Co.) - \$3,240,000 to refund 1992 bonds; Grayson Co. - \$5,665,000 to refund 1995 bonds; Hart Co. - \$950,000 to partially refund 1990 and 1991 bonds; Henry Co. - \$1,270,000 to refund 1992 bonds; Hopkins Co. - \$2,280,000 to finance improvements and additions to an elementary school and \$15,815,000 to refund 1992 and 1994 bonds; Johnson Co. - \$3,210,000 to refund 1991 bonds; Lincoln Co. - \$3,760,000 to refund 1992 bonds; Livingston Co. - \$2,310,000 to partially refund 1994 bonds; Lyon Co. - \$650,000 to refund 1992 bonds; Madison Co. - \$2,350,000 to refund 1990 bonds; Perry Co. - \$8,455,000 to refund 1992 bonds; Pulaski Co. - \$260,000 to refund 1986 bonds and \$9,070,000 to refund 1992 bonds; Raceland Ind. (Greenup Co.) - \$1,970,000 to refund 1991 bonds; Science Hill Ind. (Pulaski Co.) - \$990,000 to refund 1991 bonds; Todd Co. - \$2,450,000 to partially refund 1994 bonds; Webster Co. - \$1,250,000 to refund 1991 bonds; and Williamsburg Ind. (Whitley Co.) - \$1,115,000 to refund 1992 bonds.

Representative Wayne made a motion to approve the school bond issues with SFCC participation in debt service. The motion was seconded by Representative Marcotte and passed by voice vote. Chairman Damron abstained from the vote, citing a potential conflict of interest.

The remaining agenda items under New Business did not require action by the Committee. These items include:

(1) Allocation of \$200,000 from the Emergency Repair, Maintenance, and Replacement Account for enhanced security for the Grauman Unit at Central State Hospital in Jefferson County.

(2) Allocation of \$55,000 from the Statewide Deferred Maintenance Pool Account, to be used in conjunction with other funds for restoration of the Costigan Cupola, located on the campus of the School for the Blind in Louisville.

(3) An emergency lease to permit the Commission for Children with Special Health Care Needs to stay at its current location at 333 Waller Avenue, in Lexington, Kentucky. This was prompted by changes made in the 1998 Regular Session to transfer the contracted employees of the Commission into the state merit system.

(4) Follow-up report for the Kentucky Asset/Liability Commission General Fund Tax and Revenue Anticipation Notes, 1998 Series B.

(5) Follow-up report for Kentucky Higher Education Student Loan Corporation Insured Student Loan Revenue Bonds, 1998 Series A and B.

(6) Report by the Todd County School District of a proposed bond issue (\$1,075,000 and 100% locally funded). Proceeds will be used to finance classroom additions at an elementary school.

(7) The Semi-Annual Report of the Kentucky Asset/Liability Commission.

(8) Annual Report of Bonds Outstanding by the Office of Financial Management and Economic Analysis.

Following a tour of the Louisville Waterfront Park, the new Jefferson County Judicial Center, and the Commonwealth Convention Center Expansion Project, the Committee adjourned at approximately 2:00 p.m.